
**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH**

ANNA Z,

Plaintiff,

v.

KILOLO KIJAKAZI,

Defendant.

**ORDER AFFIRMING & ADOPTING
REPORT & RECOMMENDATION**

Case No. 2:22-CV-781-DAK-DAO

Judge Dale A. Kimball

Magistrate Judge Daphne A. Oberg

This action against the Commissioner of the Social Security Administration for judicial review of Social Security Administration's denial of disability benefits was assigned to United States District Court Judge Dale A. Kimball, who then referred the case to United States Magistrate Judge Daphne A. Oberg under 28 U.S.C. § 636(b)(1)(B). On January 3, 2024, Magistrate Judge Oberg issued a Report and Recommendation [ECF No. 16], recommending that the district judge reverse the Commissioner's decision and remand the case for additional administrative proceedings.

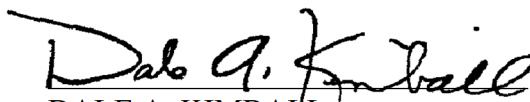
The Report and Recommendation notified the parties that any objection to the Report and Recommendation must be filed within fourteen days of receiving it. As of the date of this Order, neither party has submitted an objection and the deadline for submitting an objection has passed.

A Magistrate Judge's Report and Recommendation is subject to *de novo* review by this court. *See* 28 U.S.C. § 636(b)(1)(B); *see also* Fed. R. Civ. P. 72(b). The court has reviewed the Report and Recommendation and the record *de novo* and agrees with Magistrate Judge Oberg's

recommendation and analysis. The ALJ misconstrued the significance of Plaintiff's normal ejection fraction and failed to consider other material tests and clinical findings related to her cardiac functioning and heart transplant status. The ALJ's errors are not harmless. Therefore, the court cannot conclude that the ALJ's decision is supported by substantial evidence. The court adopts and affirms Magistrate Judge Oberg's Report and Recommendation in its entirety as the order of the court. Accordingly, the court reverses the Commissioner's decision and remands the case for additional administrative proceedings.

DATED this 29th day of January 2024.

BY THE COURT:


DALE A. KIMBALL
United States District Judge